

EXHIBIT 16

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

COMMONWEALTH OF
MASSACHUSETTS, et al.,

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH,
et al.,

Defendants.

Case No. _____

Declaration of Miguel Garcia-Diaz

I, Dr. Miguel Garcia-Diaz, hereby declare:

1. I am the University of Delaware Vice President for Research, Scholarship, and Innovation, a position I have held since May 1, 2024. As Vice President for Research, Scholarship, and Innovation, I have oversight of all research and scholarship activities taking place at the University, including all research funded by the U.S. Department of Health and Human Services. Prior to holding this position, I was a Professor of Pharmacological Sciences and interim Vice President for Research at Stony Brook University.
2. As the University of Delaware Vice President for Research, Scholarship, and Innovation, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by my staff.
3. I am providing this declaration to explain certain impacts of National Institutes of Health (“NIH”) Notice Number NOT-OD-25-068, *Supplemental Guidance to the 2024 NIH Grants Policy Statement: Indirect Cost Rates*, which purports to immediately reduce indirect costs payments to 15%.

4. The University of Delaware is Delaware's flagship research university. The University harbors many research initiatives dedicated to advancing human health. University researchers perform cutting-edge research in critical areas, including cardiovascular health, neurological diseases, aging, rehabilitation, child development, nutrition, metabolism, and biopharmaceutical manufacturing. Importantly, it supports crucial infrastructure for biomedical and clinical research in the State of Delaware, one of three States without a medical school. This research is supported by over \$50M in annual funds from the NIH.
5. The University of Delaware has a Negotiated Indirect Cost Rate Agreement ("NICRA") with NIH, effective as of June 21, 2022. The Indirect Cost ("IDC") Rate in the University of Delaware NICRA is 60% for on-campus organized research. The University of Delaware also has negotiated rates for off-campus organized research, organized research related to the College of Agriculture, and instruction.
6. NIH's reduction of University of Delaware's IDC Rates will result in a loss of approximately \$12M in funding that University of Delaware needs to support its research programs. The loss of these funds will immediately impact and undermine the University of Delaware's ability to support its research programs and meet critical obligations associated with maintaining its research facilities, servicing debt, covering payroll for associated research compliance and facilities personnel, and maintaining administrative resources dedicated to research compliance.
7. The University of Delaware also plays a critical role in supporting clinical trials in Delaware. Indirect cost payments are essential for maintaining the infrastructure, personnel, and secure systems necessary to recruit participants, protect privacy, and ensure compliance with legal and federal regulations. The negotiated IDC Rate was relied upon by the University in its

strategic planning, including hiring of research faculty and staff and decisions around its core facilities and laboratories.

8. IDC funds are essential to cover the critical and necessary infrastructure and administrative costs associated with performing research. These costs are not optional; they are fundamental to maintaining the facilities and systems necessary for federally sponsored research. A reduction in the already negotiated and contracted University IDC Rate, will have immediate and far-reaching consequences, destabilizing the University's ability to conduct essential research.
9. University of Delaware next anticipates drawing funds on or around Monday, February 10, 2025. As a result, the reduced IDC Rate will have an immediate impact on the University. The University's liquidity is dependent on careful planning and budgeting, ensuring that expenses and revenue sources align. The University is already subject to a delay in reimbursement of NIH expenses of 30-45 days, and the IDC Rate cut will further impact the University's liquidity. This unexpected financial pressure threatens the University's ability to effectively plan and execute its research operations and potentially disrupts the ongoing success of the institution as a whole.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 9th day of February 2025, in Newark, Delaware.



Dr. Miguel Garcia-Diaz

Vice President for Research, Scholarship,
and Innovation

University of Delaware